Supreme Court, U.S.
FILED
JAN 6 1984
ALEXANDER L. STEVAS
CLERK

NO. 83-854

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

PHILIP G. NOURSE, as Circuit Court Judge of the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida,

Petitioner,

vs.

STATE OF FLORIDA, EX REL DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, DAVID PINGREE,

Respondents.

MOTION IN OPPOSITION TO MOTION TO FILE AMICUS CURIAE BRIEF

STEVEN W. HUSS
Assistant General Counsel
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(904) 488-2381

Attorney for Respondents

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Attorney for Respondents

Respondents, State of Florida, Department of Health and Rehabilitative Services, and David Pingree, oppose the Motion for Leave to File Amicus Brief and as grounds therefore state as follows:

(1) Respondent is expressly withholding consent to the filing of the Motion.

(2) The record would demonstrate that the appointment of the Public Defender as Attorney Ad Litem was only done after this case was filed in the Supreme Court. The Public Defender has not participated in these proceedings as Attorney Ad Litem in the State trial court, appellate court or Supreme Court. To Respondent's knowledge, the only efforts made by the Public Defender regarding this case have been the filing of the Motion for Leave to File Amicus Brief, and the Amicus Brief. Although Respondent has requested the Public Defender provide Respondent with documents or

pleadings which generated the need for the appointment for the Attorney Ad Litem, said documents or pleadings have not been produced. Therefore, Respondent is unaware of what facts facilitated the appointment of the Attorney Ad Litem. To this date, the Attorney Ad Litem's efforts on behalf of the juvenile have been to file a motion and amicus brief in support of the Court's position that the juvenile should be incarcerated. It is Respondent's belief that this does not demonstrate the requisite interest necessary for filing an amicus brief in support of the Petition for Certiorari. On the contrary, Respondent suggests thatthe interests of the Public Defender, as Attorney Ad Litem on behalf of the juvenile, would be to impose incarceration.

(3) The Public Defender, as Attorney Ad Litem, states that his office has a generalized interest in this case. It is Respondent's belief that a generalized interest is not sufficient to support the filing of an amicus brief in support of Petition for Certiorari.

(4) Respondent believes that it has clearly established in its earlier filed Brief in Opposition to the Petition for Certiorari, that the petition is without merit and that the Petitioner Judge does not have standing to advance any alleged constitutional rights of the juvenile. Therefore, it appears that the Attorney Ad Litem

would also be precluded from advancing any alleged rights of the juvenile to be incarcerated.

Respectfully submitted,

STEVEN W. HUSS
Assistant General Counsel
Department of Health and
Rehabilitative Services
1323 Winewood Blvd.
Tallahassee, Florida 32301
(904)488-2381
Attorney for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion in Opposition to Motion to File Amicus Curiae Brief has been furnished by U.S. Mail this 5th day of January, 1984 to:

Harry Lee Anstead
Chief Judge of the District Court of Appeal
Fourth District
P.O. Box A
West Palm Beach, FL 33401

Chief Justice James E. Alderman
Supreme Court of Florida
Tallahassee, Florida 32301

Judge Philip G. Nourse
19th Judicial Circuit Court
Room 309
St. Lucie County Courthouse
Ft. Pierce, FL 33450

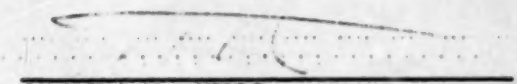
K.C. Collette
Department of Health and
Rehabilitative Services
111 Georgia Ave.
West Palm Beach, FL 33401

Michelle Russell
Assistant State Attorney for 19th Jud. Cir.
P.O. Drawer 4401
Ft. Pierce, FL 33454

Abraham Gale
Assistant Public Defender for 19th Jud. Cir.
111 Atlantic Avenue
Ft. Pierce, FL 33450

and forty copies of above to:

Clerk of the Supreme Court of the
United States
1 First Street, N.E.
Washington, D.C. 20543



STEVEN W. HUSS